

STATE OF MICHIGAN  
COURT OF APPEALS

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CENTURY BANK AND TRUST,

Plaintiff-Appellee,

v

T & G GROUP, L.L.C., NAZAR GARMO,  
MILED GARMO, MCH STURGIS  
CORPORATION, JALAL YATOOMA and  
SUHAM YATOOMA,

Defendants,

and

SALEM GARMO,

Defendant-Appellant.

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Before: Jansen, P.J., and Zahra and Gleicher, JJ.

ZAHRA, J. (*concurring in part and dissenting in part*).

I concur in all aspects of the majority opinion except for the conclusion that the record evidence before the trial court requires the legal conclusion that Salem Garmo's delay in filing his motion to set aside the stipulated order of money judgment was reasonable. In my opinion, those served with legal documents of any kind should take the matter very seriously and immediately address the issues raised in the documents served. This is particularly true when one is served with a notice of debtor examination. The failure to act expeditiously gives rise to an inference that one is attempting to avoid, manipulate or is otherwise indifferent to the rules of the legal system. While Mr. Garmo's health issues may support a finding that this delay was reasonable, these issues do not require such a finding. In my opinion, whether Mr. Garmo acted reasonably requires a credibility determination that can only be made by the trial court. I would remand this matter to the trial court for an evidentiary hearing to determine whether the delay in filing the motion to set aside the stipulated order of money judgment was reasonable.

/s/ Brian K. Zahra